

THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ANNA PATRICK, DOUGLAS MORRILL,  
ROSEANNE MORRILL, LEISA GARRETT,  
ROBERT NIXON, SAMANTHA NIXON,  
DAVID BOTTONFIELD, ROSEMARIE  
BOTTONFIELD, TASHA RYAN, ROGELIO  
VARGAS, MARILYN DEWEY, PETER  
ROLLINS, RACHAEL ROLLINS,  
KATRINA BENNY, SARA ERICKSON,  
GREG LARSON, and JAMES KING,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

DAVID L. RAMSEY, III, individually;  
HAPPY HOUR MEDIA GROUP, LLC, a  
Washington limited liability company; THE  
LAMPO GROUP, LLC, a Tennessee limited  
liability company,

Defendants.

Case No. 2:23-cv-00630

**PLAINTIFFS' MOTION TO AMEND  
THE COMPLAINT**

**NOTED ON MOTION CALENDAR:  
NOVEMBER 17, 2023**

## I. RELIEF REQUESTED

Plaintiffs seek leave to file an Amended Complaint to 1) add causes of action for conversion and constructive trust, 2) add additional factual matters related to their claims and Defendants actions, and 3) correct typographical and formatting errors. Although there is no Answer filed and Plaintiffs may still amend the Complaint as a matter of right, Plaintiffs are simultaneously filing a motion for reconsideration based on the amended complaint and submit this motion in the interests of full disclosure and transparency about their reasoning and approach. However, Plaintiffs seek to amend the complaint regardless of the Court's ruling on their Motion for Reconsideration.

## II. STATEMENT OF FACTS

Attached is Plaintiffs' proposed Amended Complaint with interlineated changes. *See* Albert Decl., Ex. 1. The proposed Amended Complaint also adds facts related to the existence of a constructive trust. *Id.*, ¶¶ 106, 111-114, 135. It also alleges facts regarding the recordkeeping of Reed Hein and the Ramsey Defendants regarding Ramsey referrals. *Id.*, ¶¶ 12, 145-153. Finally, the proposed Amended Complaint includes additional facts relevant to the alleged conspiracy, settlement of *Adolph v. Reed Hein & Associates*, defendant Happy Hour Media Group's role in the conspiracy and other violations. *Id.*, ¶¶ 93, 107, 115, 119-120, 137, 177, 219.

The proposed amended complaint alleges a new cause of action for conversion and a standalone cause of action for constructive trust. *Id.*, ¶¶ 236-248. Finally, the proposed Amended Complaint corrects typographical and formatting errors. *See, e.g., id.*, ¶¶ 45, 102.

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### III. ARGUMENT

#### a. The Court Should Permit Amendment Because Plaintiffs are Entitled to Amend as a Matter of Course

A party “may amend its pleading once as a matter of course within . . . 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed. R. Civ. Pro. 15(a)(1). In other circumstances, “a party may amend its pleading only with the opposing party’s consent or the court’s leave. The court should freely give leave when justice so requires.” Fed. R. Civ. Pro. 15(a)(2). The Ninth Circuit has held that the policy of granting leave to amend is “to be applied with extreme liberality.” *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003).

Defendant Happy Hour Media Group filed and served a motion under Rule 12(b) on October 5, 2023. *See* Dkt. 32. October 5, 2023 is within 21 days of the date of this motion. None of the Defendants have filed a pleading responsive to Plaintiffs’ Complaint. No responsive pleading is due until November 9, 2023. *See* Dkt. 37. Plaintiffs have a right to amend as a matter of civil procedure.

#### b. Plaintiffs Seek to Leave to Amend the Complaint to Support Conversion, Unjust Enrichment, and a Standalone Claim for Constructive Trust, and to Make Updated Allegations about the Recordkeeping of Dave Ramsey Referrals

Plaintiffs’ proposed Amended Complaint alleges Reed Hein had statutory and regulatory duties under 16 C.F.R. § 310, RCW 18.28 *et seq.*, and RCW 19.134 *et seq.* to keep customer funds in trust. Albert Decl., Ex. 1, ¶¶ 111-114. It also alleges additional facts to invoke the constructive trust doctrine. *Id.*; *see id.*, ¶¶ 106, 135, 243-248. Based on those facts and duties, Plaintiffs seek to add a claim for conversion, add a standalone claim for constructive trust, and

1 seek reconsideration on their unjust enrichment claim. In addition, their allegations about the  
 2 record-keeping of Reed Hein referrals is to support the plausibility of class certification.

#### 3 IV. CONCLUSION

4 Plaintiffs put this motion before the Court in the interest of full transparency seek to  
 5 amend their complaint to add additional factual support and causes of action supported by the  
 6 same facts, and to correct typographical and formatting errors. Plaintiffs are entitled to amend  
 7 their complaint as a matter of course. However, Plaintiffs also would like their proposed  
 8 Amended Complaint to be before the Court as it considers their Motion for Reconsideration  
 9 on the Issue of Prejudice. Hence, Plaintiffs submit this Motion to Amend and the proposed  
 10 Amended Complaint alongside their Motion for Reconsideration on the Issue of Prejudice.

11  
 12 DATED this 26th day of October, 2023.

13  
 14 *I certify that this memorandum contains 690 words, in compliance with the Local Civil Rules.*

15 ALBERT LAW, PLLC

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